



[Billing Code 3290-F0]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Agency Information Collection Activities; Request for the Office of Management and Budget to Approve Renewal of the Collection of Information Titled ‘301 Exclusion Requests’

AGENCY: Office of the United States Trade Representative.

ACTION: 30-day notice with a request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is submitting a request to the Office of Management and Budget (OMB) to renew approval for three years of an existing information collection request (ICR) titled *301 Exclusion Requests* under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations.

DATES: Submit comments no later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION]**.

ADDRESSES: Submit comments about the ICR, including the title 301 Exclusion Requests, to the Office of Information and Regulatory Affairs at OMB, at oir-submissions@omb.eop.gov, or 725 Seventeenth Street NW, Washington DC 20503, Attention: USTR Desk Officer.

FOR FURTHER INFORMATION CONTACT: USTR Assistant General Counsels Philip Butler or Benjamin Allen at (202) 395-5725.

SUPPLEMENTARY INFORMATION:

A. Comments

Submit written comments and suggestions to OMB addressing one or more of the following four points:

- (1) Whether the ICR is necessary for the proper performance of USTR's functions, including whether the information will have practical utility.
- (2) The accuracy of USTR's estimate of the burden of the ICR, including the validity of the methodology and assumptions used.
- (3) Ways to enhance the quality, utility, and clarity of the ICR.
- (4) Ways to minimize the burden of the ICR on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

B. Overview of This Information Collection

Title: 301 Exclusion Requests.

OMB Control Number: 0350-0015, which expires on December 31, 2019.

Form Number(s): 301 Exclusion Request/Response/Reply Form; Exclusion Extension Comment Form.

Description: Following a comprehensive investigation, the U.S. Trade Representative determined that the Government of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation were actionable under section 301(b) of the Trade Act of 1974 (19 U.S.C. 2411(b)). The U.S. Trade Representative determined that appropriate action to obtain the elimination of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation included the imposition of additional *ad valorem* duties on products from China classified in certain

enumerated subheadings of the Harmonized Tariff Schedule of the United States (HTSUS).

For background on the proceedings in this investigation, please see the prior notices issued in the investigation, including 82 FR 40213 (August 23, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 32181 (July 11, 2018), 83 FR 33608 (July 17, 2018), 83 FR 40823 (August 16, 2018), 83 FR 47236 (September 18, 2018), 83 FR 47974 (September 21, 2018), 83 FR 49153 (September 28, 2018), 83 FR 65198 (December 19, 2018), 83 FR 67463 (December 28, 2018), 84 FR 7966 (March 5, 2019), 84 FR 11152 (March 25, 2019), 84 FR 16310 (April 18, 2019), 84 FR 20459 (May 9, 2019), 84 FR 21389 (May 14, 2019), 84 FR 21892 (May 15, 2019), 84 FR 22564 (May 17, 2019), 84 FR 23145 (May 21, 2019), 84 FR 25895 (June 4, 2019), 84 FR 26930 (June 10, 2019), 84 FR 29576 (June 24, 2019), 84 FR 32821 (July 9, 2019), 84 FR 37381 (July 31, 2019), 84 FR 38717 (August 7, 2018), 84 FR 43304 (August 20, 2019), 84 FR 43853 (August 22, 2019), 84 FR 45821 (August 30, 2019), 84 FR 46212 (September 3, 2019), 84 FR 49591 (September 20, 2019), 84 FR 49564 (September 20, 2019), 84 FR 49600 (September 20, 2019), 84 FR 52567 (October 2, 2019), 84 FR 52553 (October 2, 2019), and 84 FR 57144 (October 24, 2019).

On May 15, 2019, USTR submitted a request to OMB for emergency processing of this ICR. OMB approved the emergency processing request on June 20, 2019, and assigned Control Number 0350-0015, which expires on December 31, 2019.

On June 24, 2019 (84 FR 29576), the U.S. Trade Representative established a process by which U.S. stakeholders could request the exclusion of particular products

classified within a covered tariff subheading from the additional duties that went into effect as a result of this Section 301 investigation.

On June 30, 2019, USTR opened an electronic portal for submission of exclusion requests - <http://exclusions.ustr.gov> - using the approved ICR. Requests for exclusion have to identify a particular product and provide supporting data and the rationale for the requested exclusion. Within 14 days after USTR posts a request for exclusion, interested persons can provide a response with the reasons they support or oppose the request. Interested persons can reply to the response within 7 days after it is posted.

On August 22, 2019, USTR requested comments regarding its intent to seek a three-year renewal of the OMB control number for this ICR. *See* 84 FR 43853. As discussed further below, USTR received three submissions in response to the notice.

USTR also anticipates using the ICR to establish a process by which U.S. stakeholders can request and comment on the extension of particular exclusions granted under the December 2018 product exclusion notice.

As indicated above, USTR received three comments regarding the renewal of the ICR. Two comments requested that USTR add additional questions to the ICR; two comments requested the addition of clarifying language to certain questions; one comment identified a question as burdensome; one comment suggested improvements to the user experience for submitting the ICR through the online 301 exclusions portal; and one comment concerned the burden estimate.

USTR is revising the USTR after considering these comments and USTR's experience to date in administering the exclusion process. USTR added a new question

(question 3) that asks if the product is subject to an antidumping or countervailing duty order issued by the U.S. Department of Commerce. USTR also added additional clarifying language to question 4, indicating that requestors, if necessary, may provide a range of unit values when describing the product at issue. In addition, USTR updates the 301 portal to reduce the burden on submitters and currently is working to improve the user experience by increasing the character limit for certain fields to allow requestors additional space for their comments.

USTR also has created a condensed version of the ICR - the Exclusion Extension Comment Form (Annex B) – that interested parties will use to comment on whether to extend particular exclusions granted in December 2018. The condensed ICR reduces the number of data points in the 301 Exclusion Request/Response/Reply Form (Annex A).

The condensed ICR is comprised of Part A, which collects information that USTR will post for public inspection via regulations.gov, and Part B, which collects business confidential information (BCI) via email and will not be publicly available. The condensed ICR updates the collecting period for specific data to the most recent relevant period (*i.e.*, 2018, the first half of 2018, and the first half of 2019 or since 2018).

Part A includes language clarifying that for questions 4 and 5 commenters should “include information concerning any changes in the global supply chain since July 2018 with respect to the particular product.” The condensed ICR includes three new questions in Part A. Question 2 asks commenters to provide information necessary to identify the exclusion at issue, including the date of the Federal Register notice containing the exclusion, the 10-digit subheading of the HTSUS applicable to the exclusion, and the full article description for the exclusion. Question 3 asks commenters whether they support

extending the exclusion and asks that they provide a public version of their rationale.

Question 6 asks commenters whether they will submit Part B of the questionnaire.

Part B adds two new questions, asking commenters to discuss whether Chinese suppliers have lowered their prices for products covered by the exclusion following the imposition of the duties and to provide any additional information in support of their comments taking into account the instructions provided in the Federal Register notice.

The revised ICR is included as Annex A to this notice. The condensed ICR for exclusion extension comments is included as Annex B.

Affected Public: U.S. stakeholders who want to request, or comment on a request, to exclude particular products from the additional duties on products from China classified in certain enumerated subheadings of the HTSUS and U.S. stakeholders who want to comment regarding the extension of the December 2018 product exclusions.

Frequency of Submission: One submission per request, response, reply, or comment.

Respondent Universe: U.S. stakeholders.

Reporting Burden:

Total Estimated Responses: 45,000 requests to exclude a particular product and/or comments to extend the December 2018 product exclusions; 5,250 responses to a product exclusion request; and 2,250 replies to a response.

Total Estimated Annual Burden: USTR estimates that preparing and submitting a request to exclude a particular product or commenting regarding an exclusion extension will take approximately 120 minutes and will cost about \$200 per submission. The total time burden for requests is 90,000 hours and the estimated total cost is \$9,000,000.

USTR estimates that preparing and submitting a response to a product exclusion request will take approximately 60 minutes, and will cost about \$100 per submission. The total time burden for responses is approximately 5,250 hours at an estimated total cost of \$525,000.

USTR estimates that preparing and submitting a reply will take approximately 30 minutes, and will cost about \$50 per submission. The total time burden for replies is approximately 1,125 hours and the estimated total cost is \$56,250.

USTR estimates that the cost to the Federal government to evaluate each request, and response or reply, if any, is 2.5 hours, for a total time burden of 112,500 hours at an estimated total cost of \$6,200,000. The \$6.2 million total cost estimate includes the average annual salary plus benefits, for the federal employees and contractors expected to work on the exclusion process. USTR estimates that it will take approximately one year to complete the process.

Status: Pursuant to the PRA and its implementing regulations, USTR is submitting a request to OMB to renew approval of this ICR for three years.

C. Requirements for Submissions

You must submit written comments by the deadline set forth in this notice. Submit comments about the ICR, including the title *301 Exclusion Requests*, to the Office of Information and Regulatory Affairs at OMB, at oir-submissions@omb.eop.gov, or 725 Seventeenth Street NW, Washington DC 20503, Attention: USTR Desk Officer.

Janice Kaye,

Chief Counsel for Administrative Law.

Annex A

Exclusion Request Form

1. Submitter Information

Full Organization Legal Name * **(Public)**

Requestor First Name * **(BCI)**

Requestor Last Name * **(BCI)**

Requestor Mailing Address

Street Address Line 1 * **(BCI)**

Street Address Line 2 **(BCI)**

City * **(BCI)**

State * **(BCI)**

Zip Code * **(BCI)**

Country * **(BCI)**

Requestor E-mail Address * **(BCI)**

Requestor Phone Number * **(BCI)**

Does your business meet the size standards for a small business as established by the Small Business Administration? * **(Public) YES/NO/Not Sure**

Are you a third party, such as a law firm, trade association, or customs broker, submitting on behalf of an organization or industry? * **(Public) YES/NO**

Note: If you are submitting on behalf of an organization/industry, the information below is required.

Third Party Firm/Association Name **(Public)**

Third Party First Name **(BCI)**

Third Party Last Name **(BCI)**

Third Party Mailing Address

Street Address Line 1 **(BCI)**

Street Address Line 2 **(BCI)**

City **(BCI)**

State **(BCI)**

Zip Code **(BCI)**

Country (BCI)

Third Party E-mail Address (BCI)

Third Party Phone Number (BCI)

Who will be the primary point of contact? (Select One) * (BCI)

- ☐ Requestor
- ☐ Third Party Submitter
- ☐ Requestor and Third Party Submitter

2. **Please provide the 10-digit HTSUS item number* for the product you wish to address in this product exclusion request. A 10-digit HTSUS number is required. * (Public)**

Use numerical characters only with no special characters (Example: 1023456789). For help with finding the HTSUS item number associated with your product, see <https://hts.usitc.gov/>.

3. **Is this product subject to an antidumping or countervailing duty order issued by the U.S. Department of Commerce? ***
4. **Please provide a complete and detailed description of the particular product of concern.** (A detailed description of the product includes, but is not limited to, its physical characteristics (e.g., dimensions, weight, material composition, etc.), whether product is designed to function in or with a particular machine (application), the unit value of the product (please provide a range if necessary), and any unique physical features that distinguish it from other products within the covered 8-digit HTSUS subheading. If needed, please attach images and specification sheets, CBP rulings, court decisions, and previous import documentation below.) **Please also describe the product's principal use.**

Note: USTR will not consider requests that identify the product using criteria that cannot be made available to the public. USTR will not consider requests in which more than one unique product is identified.

Product Name * (Public)

Product Description (e.g. dimensions, weight, material composition, etc.) * (Public)

Product Function, Application, and Principal Use * (Public)

Please upload any relevant attachments that will help identify and distinguish your product (e.g. CBP rulings, photos and specification sheets, and previous import documentation) (Public)

5. **Requestor's relationship to the product (select all that apply) * (Public)**

- Importer
- U.S. Producer
- Purchaser
- Industry Association
- Other

6. **Is this product, or a comparable product, available from sources in the United States? (If you indicate “NO” or “NOT SURE,” in the box below, you must explain why the product is unavailable or why you are unsure of the product’s availability.)**
*** (Public)**

- YES
- NO
- NOT SURE

Please explain why the product is unavailable or why you are unsure of the product’s availability. (Submitter Determines BCI or Public)

7. **Is this product, or a comparable product, available from sources in third countries? (If you indicate “NO” or “NOT SURE,” in the box below, you must explain why the product is unavailable or why you are unsure of the product’s availability.)** *
(Public)

- YES
- NO
- NOT SURE

Please explain why the product is unavailable or why you are unsure of the product’s availability. (Submitter Determines BCI or Public)

8. **Please discuss any attempts to source this product from United States or third countries.** * **(Public)**

9. **Please provide the value in USD and quantity (with units) of the Chinese-origin product of concern that you purchased in 2017, 2018, and the first half of 2019. Limit this figure to the products purchased by your firm (or by members of your trade association). Please provide estimates if precise figures are unavailable.** *
(BCI)

2017 Value:

2017 Quantity:

2018 Value:

2018 Quantity:

2019 Value (Jan-Jun):

2019 Quantity (Jan-Jun):

Are the provided figures estimates?: * **(BCI)** YES/NO

Are any of these purchases from a related company? * **(BCI)** YES/NO

Please list the name and relationship of the related company. (BCI)

10. Please provide the value in USD and quantity (with units) of the product of concern that you purchased from any third-country source in 2017, 2018, and the first half of 2019 (Jan-Jun). Limit this figure to the products purchased by your firm (or by members of your trade association). Please provide estimates if precise figures are unavailable. * (BCI)

2017 Value:

2017 Quantity:

2018 Value:

2018 Quantity:

2019 Value (Jan-Jun):

2019 Quantity (Jan-Jun):

Are the provided figures estimates?: * (BCI) YES/NO

11. Please provide the value in USD and quantity (with units) of the product of concern that you purchased from domestic sources in 2017, 2018, and the first half of 2019 (Jan-Jun). Limit this figure to the products purchased by your firm (or by members of your trade association). Please provide estimates if precise figures are unavailable. * (BCI)

2017 Value:

2017 Quantity:

2018 Value:

2018 Quantity:

2019 Value (Jan-Jun):

2019 Quantity (Jan-Jun):

Are the provided figures estimates?: * (BCI) YES/NO

12. Please provide information regarding your company's gross revenue in USD for 2018 and the first half of 2019 (Jan-Jun). * (BCI)

Fiscal Year 2018:

First Half of 2019 (Jan-Jun):

Are the provided figures estimates?: * (BCI) YES/NO

13. Is the Chinese-origin product of concern sold as a final product or as an input used in the production of a final product or products? * (Public)

a) For imports sold as final products, please provide: (BCI)

% of your company's total, U.S. gross sales in 2018 that the Chinese-origin product accounted for.

b) For imports of inputs used in the production of final products, please provide: (BCI)

% of the total cost of producing the final product(s) the Chinese-origin input accounts for.

% of your company's total, U.S. gross sales in 2018 that sales of the final product(s) incorporating the input accounts for.

14. **Please comment on whether the imposition of additional duties on the product you are seeking to exclude will result in severe economic harm to your company or other U.S. interests. In addressing this factor, please address the number of employees in your company and the number of employees potentially affected. * (BCI)**
15. **Please provide any additional information in support of your request, taking account of the instructions provided in Section [B] of the Federal Register notice. (Submitter Determines BCI or Public)**
16. **Did you submit exclusion requests for the Section 301 \$34 billion (Docket ID: USTR-2018-0025), the \$16 billion (Docket ID: USTR-2018-0032), and/or the \$200 billion (Docket ID: USTR-2019-0005) tariff actions? * (Public) YES/NO**

Please enter the total value of your company's imports applicable to the tariff action for which you submitted one or more exclusion request: (BCI)

Initial \$34 Billion Tariff Action:

Additional \$16 Billion Tariff Action:

Additional \$200 Billion Tariff Action:

17. **Please comment on whether the particular product of concern is strategically important or related to "Made in China 2025" or other Chinese industrial programs. You must explain in the box below why you believe the product of concern is or is not strategically important or related to "Made in China 2025" or other Chinese industrial programs. * (Public)**
18. **Include any additional attachments that should be considered along with this exclusion request (e.g., customs rulings, court decisions, previous import documentation, etc.). Please do not include attachments that contain your written argument. (Submitter Determines BCI or Public)**

Exclusion Extension Comment Form A

Information in Form A should be submitted on the Public Docket at <http://www.regulations.gov>.

1. Submitter Information

Full Organization Legal Name **(Public)**

Commenter First Name **(Public)**

Commenter Last Name **(Public)**

Are you a third party, such as a law firm, trade association, or customs broker, submitting on behalf of an organization or industry? **(Public)**

Yes/No

Note: If you are submitting on behalf of an organization/industry, the information below is required.

Third Party Firm/Association Name **(Public)**

Third Party First Name **(Public)**

Third Party Last Name **(Public)**

Annex B

2.

a) Please provide the publication date of the Federal Register Notice containing the exclusion you are commenting on. **(Public)**

b) Please provide the 10-digit subheading of the HTSUS applicable to the exclusion you are commenting on. *A 10-digit HTSUS number is required.* **(Public)**

c) From the Federal Register Notice, please provide the full article description for the exclusion. If the exclusion is a 10-digit code, please indicate. **(Public)**

d) Is this product subject to an antidumping or countervailing duty order issued by the U.S. Department of Commerce? **(Public)**

Yes/No/Not Sure

3. Do you support extending the exclusion (yes or no)? Please explain your rationale. (You must provide a public version of your rationale, even if you are also submitting a Form B with more detailed, confidential information.) **(Public)**

Yes/No

4. Please explain whether the products covered by the exclusion, or comparable products, are available from sources in the United States? (Please include information concerning any changes in the global supply chain since July 2018 with respect to the particular product or any other relevant industry developments.) (Public)

5. Please explain whether the products covered by the exclusion, or comparable products, are available from sources in third countries? (Please include information concerning any changes in the global supply chain since July 2018 with respect to the particular product.) (Public)

6. Will you be submitting Form B? (Public)

Yes/No

Note: Responses to Form A should be submitted to the Public Docket at Regulations.gov (Information submitted in Form A will be posted on the Public Docket).

Exclusion Extension Comment

Form B

Form B should be completed by Importers and Purchasers of the products covered by the exclusion.

Form B should be submitted via email at 301bcisubmissions@ustr.eop.gov and will not be available to the public. Please include Form A with your email submission of Form B.

NOTE: Form A should be submitted both on regulations.gov and with Form B, via email.

1.

a.) Please provide the value in USD and quantity (with units) of the Chinese-origin product covered by the specific exclusion that you purchased in 2018, the first half of 2018, and the first half of 2019. Limit this figure to the products purchased by your firm (or by members of your trade association). Please provide estimates if precise figures are unavailable. (BCI)

2018 Value:

2018 Quantity:

2018 (Jan-Jun)
Value:

2018 (Jan-Jun)
Quantity:

2019 (Jan-Jun)
Value:

2019 (Jan-Jun)
Quantity:

Are the provided figures estimates? (BCI)

Yes/No

Are any of these purchases from a related company? (BCI)

Yes/No

Please list the name and relationship of the related company. (BCI)

Name:

Relationship:

b.) Please discuss whether Chinese suppliers have lowered their prices for products covered by the exclusion following imposition of the duties. (BCI)

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- 2. Please provide the value in USD and quantity (with units) of the product covered by the specific exclusion that you purchased from any third-country source in 2018, the first half of 2018, and the first half of 2019. Limit this figure to the products purchased by your firm (or by members of your trade association). Please provide estimates if precise figures are unavailable. (BCI)**

2018 Value:

2018 Quantity:

**2018 (Jan-Jun)
Value:**

**2018 (Jan-Jun)
Quantity:**

**2019 (Jan-Jun)
Value:**

**2019 (Jan-Jun)
Quantity:**

Are the provided figures estimates? (BCI)

Yes/No

3. Please provide the value in USD and quantity (with units) of the product covered by the specific exclusion that you purchased from domestic sources in 2018, the first half of 2018, and the first half of 2019. Limit this figure to the products purchased by your firm (or by members of your trade association). Please provide estimates if precise figures are unavailable. (BCI)

2018 Value:

2018 Quantity:

2018 (Jan-Jun)
Value:

2018 (Jan-Jun)
Quantity:

2019 (Jan-Jun)
Value:

2019 (Jan-Jun)
Quantity:

Are the provided figures estimates? (BCI)

Yes/No

4. Please discuss any efforts you have undertaken since July 2018 to source this product from the United States or third countries. (BCI)

5. Please provide information regarding your company's gross revenue in USD for 2018, the first half of 2018, and the first half of 2019. (BCI)

Fiscal Year 2018:

First Half (Jan-Jun) 2018:

First Half (Jan-Jun) 2019:

Are the provided figures estimates? (BCI)

Yes/No

- 6. Is the Chinese-origin product of concern sold as a final product or as an input used in the production of a final product or products? (BCI)**

Final
Product/Input

- 7. Please comment on whether the imposition of additional duties on the product(s) covered by the exclusion you are seeking an extension for, will result in severe economic harm to your company or other U.S. interests. (BCI)**

- 8. Please provide any additional information in support of your request, taking account of the instructions provided in Section [B] of the Federal Register notice. (BCI)**

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